IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 1257 of 2006.

Decided on: 03.08.2007.

Nand Lal & Others. … … Petitioners.

Versus

Director of Consolidation of Holdings & Another. … … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *Yes.*

For the Petitioners:	**Mr. Rakesh Chandel, Advocate.**
For Respondent No.1 :	**Mr. M. S. Chandel, Advocate General with Ms. Meenakshi Sharma, Deputy Advocate Generals.**
For Respondent No.2:	**Mr. Ajay Sharma, Advocate.**

Rajiv Sharma, Judge (Oral):

A challenge has been laid to the order passed by the Additional Director, Consolidation of Holdings, H.P., dated 27.4.2006.

The brief facts necessary for the adjudication of this petition are that the respondent No.2 had filed a revision petition before the Additional Director, Consolidation of Holdings on 17.1.2002 on the following grounds:-

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[1] ***Whether reporters of local papers be allowed to see the judgment? Yes.***

"That Khasra No.394 measuring 0-4 has wrongly been allotted to the petitioners for the extension of abadi whereas the same was with the petitioners and as such land out of Khasra No.951/395 old 214 new measuring 0-3 biswas was required to be allotted to the petitioner."

The Additional Director, Consolidation of Holdings directed the Assistant Consolidation Officer, Mandi vide order dated 23.5.2003 to visit the spot and furnish the report within a period of 30 days. Consequently, the Assistant Consolidation Officer, Mandi visited the spot and submitted the report to the Additional Director, Consolidation of Holdings on 18.6.2003. The Additional Director on the basis of the report furnished by the Assistant Consolidation Officer, Mandi had passed the impugned order on 27.4.2006.

Mr. Rakesh Chandel had strenuously argued that his client had filed objections to the report prepared by the Assistant Consolidation Officer, Mandi, but the same have not been considered by the competent authority. He had also argued that the judgment rendered by this Court in RSA No.125 of 2005, decided on 30.8.2005 was required to be considered by the Additional Director, Consolidation at the time of passing the order dated 27.4.2006. The learned Advocate General and Mr. Ajay Sharma had supported the order dated 27.4.2006.

I have heard the parties and perused the record.

To appreciate the rival submissions made by the learned Advocates, the record of the proceedings of case No.12/2002 was directed to be produced by the State. Consequently, the State had produced the entire record for perusal of the Court.

The position which emerges from the record is that the Additional Director, Consolidation had directed the Assistant Consolidation Officer, Mandi on 23.5.2003 to visit the spot and prepare the report and to furnish the same within 30 days. The report was compiled by the Assistant Consolidation Officer by visiting the spot. The petitioners had filed objections to the report dated 18.6.2003. The objections are at page 24 of the record of proceedings. The date mentioned in the objections is 2nd January, 2003 which appears to be wrong since the objections were filed only after the report was prepared and submitted by the Assistant Consolidation Officer. The objections raised by the petitioners were not at all considered by the Additional Director, Consolidation. It was incumbent upon the Additional Director, Consolidation to consider the objections raised against the report of Assistant Consolidation Office, Mandi, dated 18.6.2003. There is no explanation in the reply why the objections raised by the petitioner have been over-looked. There is no mentioning of the objections filed by the petitioners in the order sheet of the Additional Director, Consolidation. The Additional Director, Consolidation has passed the impugned order, dated

27.4.2006 on the basis of the report submitted by the Assistant Consolidation Officer, dated 18.6.2003. Since the objections raised by the petitioners against the report of Assistant Consolidation Officer, dated 18.6.2003 remained un-decided, the report could not be made the basis for passing the order dated 27.4.2006.

Accordingly, it is held that it was incumbent upon the Additional Director, Consolidation to consider the objections raised against the report submitted by the Assistant Consolidation Officer, dated 18.6.2003 before finally deciding the matter.

Consequently, this petition is allowed. The impugned order dated 27.4.2006 is quashed and set aside and the matter is remanded back to the Additional Director, Consolidation with a direction to consider the objections raised by the petitioner against the report of the Assistant Consolidation Officer, dated 18.6.2003. The Additional Director, Consolidation of Holdings, H.P. is directed to decide the matter after considering the objections raised by the petitioners to the report of the Assistant Consolidation Officer within a period of two months from today. To avoid delay, the parties are directed to make themselves available before the Additional Director, Consolidation of Holdings, H.P. on August 17, 2007. No order as to costs.

(Rajiv Sharma) Judge.

August 03, 2007.
(sck)